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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,975	04/20/2001	Mark Buonanno	2705-711	4882

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EXAMINER
BORISSOV, IGOR N

ART UNIT	PAPER NUMBER
3628	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

		Application No.	Applicant(s)
		09/839,975	BUONANNO ET AL.
Office Action Summary		Examiner	Art Unit	
		Igor N. Borissov	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 August 2007*.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

Amendment received on 08/17/2007 is acknowledged and entered. Claims 1-27 have been amended. New claims 28-31 have been added. Claims 1-31 are currently pending in the application.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8, 11-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The following limitations are not described in the specification:

Claim 1:   "*formatting* a Business to Business (B2B) exchange".

Claim 2:   "*using the mutual URL for memorializing a transaction* corresponding to the business deal".

Claim 11:   "means for determining whether the first and second parties indicate a preference for an automated machine-to-machine transaction, and *immediately executing the automated machine-to-machine transaction based on the first and second preset transaction criteria when the parties indicate the preference*;".

Claim 13:   "*means for monitoring packetized workflow procurement process communications exchanged between the parities to determine whether final receipts are sent to indicate consummation of the manually completed transaction, and when the manually completed transaction is not consummated, identify one or more exceptions responsible for disrupting consummation of the manually completed transaction* ".

Claim 14: "means for generating, using the database and according to the business information, *a ranked listing of the agents for intelligently distributing the generated notification;* and *means for distributing a notification to one or more of the agents intelligently according to the ranked listing to resolve the exceptions identified by monitoring the packetized workflow procurement process communications*".

Claim 18: "initiate establishment of a web-based collaboration session between the first party and the second party *by remotely launching a first web application local to the first party and a second web application local to the second party, said remote launching of the web applications occurring responsive to locating the first party having the purchasing criteria that corresponds to the selling criteria,*".

Claim 19: "...*when one or both of the parities indicates a preference for the machine-to-machine transaction*".

Claim 20: "for providing an audit trail of the transacted business deal,".

Claim 30: "means for determining whether the identified exceptions are a first flagged type that occurs when a sending application involved in the web-based collaboration session does not receive a confirmation within a predetermined time period, a second flagged type that occurs when either one or more networks for the parties are unable to transfer one or more of the packetized workflow procurement process communications, or a third flagged type that occurs when the packetized workflow procurement process communications include an out of bounds security parameter; generate the notification when the identified exceptions are one of the flagged types; and format the generated notification to indicated the determined flagged type."

Claim 31: "means for comparing the determined flag type to the business information for ranking the agents for intelligent distribution of the generated notification."

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-17 and 29-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11. The preamble of the claim indicates that the claim is directed to an apparatus (system), while the body of the claim recites software elements, or code per se. It is not clear to what extend the code represents a structural element. Same reasoning applied to claims 12-17 and 29-31.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

An invention, which is eligible or patenting under 35 U.S.C. 101, is in the "useful arts" when it is a machine, manufacture, process or composition of matter, which produces a concrete, tangible, and useful result.

The claim, as currently recited, appears to be directed to software modules which is nothing more than software or computer-executable instructions, or code per se. Therefor, the claim is considered to be directed to a non-statutory class of invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 7-14, 17-21 and 24 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Elms et al. (US 2002/0072992) in view of Chack (US 6,438,599).

Elms et al. (Elms) teaches a computer-implemented method, system and

computer-readable medium containing instructions for enabling a host to facilitate a

transaction between a first party and a second party, comprising:

Independent Claims

As per claims 1, 11 and 18,

locating a first party (a buyer computer) and a second party (a vendor computer)

[0020]; said buyer and vendor computers are configured to communicate via the

Internet [0024]; said parties are matched according to the predetermined criteria

(requests) [0021];

establishing a real-time chat between the buyer and the vendor; said real-time

chat includes a spoken dialog between the parties (while the voice communication is

active) [0070];

establishing a web-based collaboration session (a real-time chat) through a

website utility [0020] between the buyer and the vendor; said real-time chat includes a

spoken dialog between the parties (while the voice communication is active) [0070];

upon request, providing current market information of a business deal to said first

party and said second party [0049]; [0051];

transacting a business deal between the buyer and the vendor [0013]; [0083];

[0084].

Elms does not specifically teach that said transacting is conducted within the business-to-business exchange.

However, Elms does teach that said method provides a Web-based utility that introduces a first party, e.g., a buyer, to a second party, e.g., vendor, and facilitates a transaction between the buyer and the vendor, and enables the buyer and vendor to engage in a dialogue with one another [0008]; [0009]. Furthermore, the method steps disclosed in Elms are not affected by the fact who the engaging parties are, and would be performed the same regardless of the type of the exchange.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elms to include that said transacting is conducted between one business entity and another business entity, or within the business-to-business exchange, because it would advantageously increase the application field of the Elms' invention, thereby potentially increase revenue.

Also, while Elms teaches that said web-based collaboration session/dialog between the buyer and the vendor includes text, audio and video communicated between the parties [0070], Elms does not specifically teach that said communications are conducted simultaneously.

Chack teaches a computer-implemented method, system and computer-readable medium containing instructions for establishing communication for conducting a transaction over the Internet, said system including transaction processing system 14, web server 16, and network 20 which can support multiple telephones and computers simultaneously (C. 5, L. 29-31), said method including establishing both an audible connection (via the PSTN) and a data connection (via the network) between the call initiator and the transaction processing system so that the call initiator can communicate verbally with an agent of the transaction processing system using the telephone while simultaneously retrieving visual information in the form of web pages (C. 6, L. 48-54).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elms to include that said web-based collaboration session/dialog between the buyer and the vendor includes simultaneous communication

of text, audio and video information between the parties, as disclosed in Chack, because it would advantageously permit the augmenting of a non-visual communication path with visual data or transactional data having a defined structure, as specifically stated in Chack (C. 1, L. 67 - C. 2. L. 11).

Also, Elms and Chack does not specifically teach that said first party comprises a plurality of business division; and that said transacting said business deal comprises transacting said business deal between at least one of the plurality of business divisions of the first party and the second party.

Official notice is taken that it is old and well known that business entities may include a plurality of business divisions.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elms and Chack to include that said first party comprises a plurality of business division; and that said transacting said business deal comprises transacting said business deal between at least one of the plurality of business divisions of the first party and the second party, because it would advantageously allow big business entities to participate in the transactions, thereby increasing the application field of the Elms and Chack system, thereby potentially increase revenue.

As per claim 9,

locating a first party (a buyer computer) and a second party (a vendor computer) [0020]; said buyer and vendor computers are configured to communicate via the Internet [0024];

establishing a real-time chat between the buyer and the vendor; said real-time chat includes a spoken dialog between the parties (while the voice communication is active) [0070];

establishing a web-based collaboration session (a real-time chat) through a website utility [0020] between the buyer and the vendor; said real-time chat includes a spoken dialog between the parties (while the voice communication is active) [0070];

providing current market information of a business deal to said first party and said second party [0049]; [0051];

transacting a business deal between the buyer and the vendor [0013]; [0083]; [0084], wherein the locating step includes instant messaging (real-time chat) [0070].

Elms does not specifically teach that said transacting is conducted within the business-to-business exchange.

However, Elms does teach that said method provides a Web-based utility that introduces a first party, e.g., a buyer, to a second party, e.g., vendor, and facilitates a transaction between the buyer and the vendor, and enables the buyer and vendor to engage in a dialogue with one another [0008]; [0009]. Furthermore, the method steps disclosed in Elms are not affected by the fact who the engaging parties are, and would be performed the same regardless of the type of the exchange.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elms to include that said transacting is conducted between one business entity and another business entity, or within the business-to-business exchange, because it would advantageously increase the application field of the Elms' invention, thereby potentially increase revenue.

Also, while Elms teaches that said web-based collaboration session/dialog between the buyer and the vendor includes text, audio and video communicated between the parties [0070], Elms does not specifically teach that said communications are conducted simultaneously.

Chack teaches a computer-implemented method, system and computer-readable medium containing instructions for establishing communication for conducting a transaction over the Internet, said system including transaction processing system 14, web server 16, and network 20 which can support multiple telephones and computers simultaneously (C. 5, L. 29-31), said method including establishing both an audible connection (via the PSTN) and a data connection (via the network) between the call

initiator and the transaction processing system so that the call initiator can communicate verbally with an agent of the transaction processing system using the telephone while simultaneously retrieving visual information in the form of web pages (C. 6, L. 48-54).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elms to include that said web-based collaboration session/dialog between the buyer and the vendor includes simultaneous communication of text, audio and video information between the parties, as disclosed in Chack, because it would advantageously permit the augmenting of a non-visual communication path with visual data or transactional data having a defined structure, as specifically stated in Chack (C. 1, L. 67 - C. 2. L. 11).

Also, Elms and Chack does not specifically teach that said first party comprises a plurality of business division; and that said transacting said business deal comprises transacting said business deal between at least one of the plurality of business divisions of the first party and the second party.

Official notice is taken that it is old and well known that business entities may include a plurality of business divisions.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elms and Chack to include that said first party comprises a plurality of business division; and that said transacting said business deal comprises transacting said business deal between at least one of the plurality of business divisions of the first party and the second party, because it would advantageously allow big business entities to participate in the transactions, thereby increasing the application field of the Elms and Chack system, thereby potentially increase revenue.

Furthermore, Elms teaches:
Dependent Claims
As per claims 2, 12 and 19,

automatically completing a computer-to-computer transaction once the buyer's and the vendor's criteria are met [0020]; [0027].

As per claims 3, 13 and 20,

manually completing a transaction between the buyer and the vendor through the collaboration session [0030]; [0070].

As per claims 4, 14 and 21,

a call center agent facilitating a transaction between the buyer and the vendor upon request [0030].

As per claims 7, 17 and 24, Elms teaches said method and system, comprising the step of utilizing a proactive agent (middlemen) to contact either the first party or the second party to complete a transaction when predetermined criteria for a prospective transaction is met [0030]; [0040]; [0041]; [0051].

As per claim 8, said method and system, wherein the locating step includes seek-and-find technology [0020].

As per claim 10, providing complete record of the correspondence between the parties and transaction signature [0069]; [0065]; wherein the correspondence includes the real-time chat by way of a spoken dialog between the parties [0070].

As per claims 28-31, see reasoning applied to independent claims.

Claims 5-6, 15-16, 22-23 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elms et al. in view of Chack and further in view of Walker et al. (US 2002/0169626).

Dependent Claims

As per claims 5, 15 and 22, Elms teaches providing complete record of the correspondence between the parties and transaction signature [0069]; [0065]; wherein the correspondence includes the real-time chat over the Internet by way of a spoken dialog between the parties [0070] and further includes audio and video communication [0026].

Elms in view of Chack does not explicitly teach that said audio and video communication over the Internet includes video conferencing.

Walker et al. (Walker) teaches a method and system for providing to a prospective customer a reference for a merchant, wherein communication between parties is enabled via video conferencing, instant messaging or e-mail [0091].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Elms in view of Chack to include video conferencing, as disclosed in Walker, because it would advantageously allow parties to see each other during said communication, thereby creating more relaxed and trustworthy environment for conducting business transaction.

As per claims 6, 16 and 23, Elms teaches providing the real-time chat over the Internet in written format between the parties [0070].

As per claims 25-27, Walker teaches providing video conferencing between the parties, thereby indicating providing voice and video communication. The motivation to combine Elms with Walker would be to advantageously allow parties to see each other during said communication, thereby creating more relaxed and trustworthy environment for conducting business transaction.

Response to Arguments

Applicant's arguments filed 08/17/2007 have been fully considered but they are not persuasive.

In response to applicant's argument that the prior art fails to disclose matching a first buying party identified in the B2B exchange with a second selling party identified in the B2B exchange according to the predetermined criteria, it is noted that Elms teaches: locating a first party (a buyer computer) and a second party (a vendor computer) in said marketplace [0020]; said buyer and vendor computers are configured to communicate via the Internet [0024]; said parties *are matched according to the predetermined criteria (requests)* [0021]. As per B2B per se, see reasoning applied to claim 1.

In response to applicant's argument that the provisional application does not support all Elms' features, it is noted that so as Applicant did not indicate any particular deficient feature disclosed in Elms, it is not clear which Elms' feature Applicant considers not to be supported by the provisional application.

In response to applicant's argument that the prior art fails to disclose providing "instant messaging", it is noted that Elms explicitly teaches said feature (real-time chat) [0070].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, see form PTO-892.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
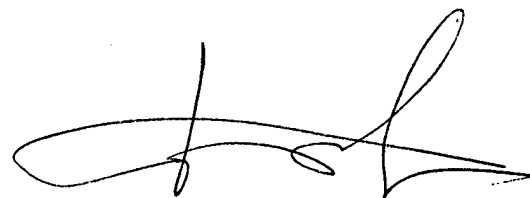
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.   Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IB
08/06/2007

IGOR N. BORISSOV
PRIMARY EXAMINER